

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11661 of 2014

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1. Md. Noor Mohammad, Son of Abdul Rauf, Resident of Mauza- Jarua Bagtola,
Police Station- Hajipur Town, District- Vaishali

.... Petitioner/s

Versus

1. Md. Farookh

2. Md. Ayub

3. Md. Sakil All (Sl.No. 1 to 3) Sons of Md. Jan

4. Ajijul Nisha, Wife of Late Md. Yakub

5. Md. Ahshan

6. Md. Irshad Both (Sl. No. 5 and 6) Sons of Md. Yakub. All (Sl. No. 1 to 6)

Resident of village- Jarua Bagtola, P.S.- Hajipur Town, District- Vaishali

7. Md. Wali Alam

8. Noor Alam

9. Mahamud Alam

10. Sagir Alam All (Sl.No. 7 to 10) Sons of Saheb Jan.

11. Rokshana Khatoon, wife of Wali Alam

12. Ajij Fatima, Wife of Saheb Jan. All (Sl. No. 7 to 12) Resident of village- Jarua

Bagtola, Post Office- Jarua Bagtola, P.S.- Hajipur Town, District- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratna Deep Prasad, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-08-2016

Heard learned counsel for the petitioner.



2. Questioning the legal sustainability of the impugned order by which the learned court below has rejected the prayer of the petitioner for his impleadment as defendant in the suit, the present application under Article 227 of the Constitution of India has been filed.

3. The suit has been filed by the plaintiff-respondent for grant of permanent injunction against the defendants. The nature of injunction as sought for is apparent from the copy of the plaint which has been annexed with the present application, for restraining the defendants from changing the nature of the suit property or transferring the same during the pendency of the suit. During the pendency of the suit, a petition has been filed by the present petitioner on the ground that he is also a co-sharer in the suit property and therefore, his interest is going to be affected by the decree to be passed in the suit. The learned court below has found in the impugned order that the present petitioner has transferred some property in favour of one Sudhir Kumar Gupta whose prayer for impleadment as a party in the suit has already been rejected by order dated 23.01.2013. The court below has further also after considering the facts and circumstances of the case has turned down the prayer of the present petitioner.

4. The learned counsel for the petitioner has submitted



as the petitioner has got the title and possession over the suit land therefore, the learned Court below has committed illegality in rejecting the petition of the petitioner of being impleaded as party in the suit. It has also been submitted that though the petitioner has transferred some property in favour of Sudhir Kumar Gupta but still he has some property left with him. It has, therefore, been submitted that the petitioner is a necessary party to the suit and the learned court below has committed error of jurisdiction in rejecting the petition filed by the petitioner.

5. After considering the submissions and the facts and circumstances of the case, it is manifest that the suit has been filed for the relief of grant of permanent injunction against the defendants. As the plaintiff has demonstrably prayed the only relief for permanent injunction against the defendants, the petitioner on the basis of the claim of title over the suit property cannot obviously compel the plaintiff to seek relief of injunction against him as well. It is well settled that the plaintiff is *dominus litis* in the suit and this is more emphasized in a suit for grant of permanent injunction. This Court is unable to find that the right title and interest as claimed by the petitioner over the suit property would be affected by the decree which may eventually be passed in the suit for permanent injunction against the defendants. The learned court below has therefore, not committed

any illegality or material irregularity in rejecting the prayer of the petitioner. In this backdrop, this Court is not inclined to invoke its jurisdiction under Article 227 of the Constitution of India to interdict the impugned order.

6. The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.09.16
Transmission Date	N.A.